

**FLATHEAD COUNTY BOARD OF ADJUSTMENT  
MINUTES OF THE MEETING  
SEPTEMBER 6, 2016**

**CALL TO ORDER**  
**6:01 pm**

A meeting of the Flathead County Board of Adjustment was called to order at approximately 6:00 p.m. at the South Campus Building, 40 11 Street West, Suite 200, Kalispell, Montana. Board members present were Cal Dyck, Ole Netteberg, Roger Noble, Mark Hash and Gina Klempel. Donna Valade, Mark Mussman, and Kari Nielsen represented the Flathead County Planning & Zoning Office.

There were 25 people in the audience.

**APPROVAL OF  
MINUTES**  
**6:01 pm**

Noble motioned and Netteberg seconded to approve the August 2, 2016 minutes as provided in the meeting packet.

The motion passed by quorum.

**PUBLIC  
COMMENT**  
***(Public matters  
that are within  
the jurisdiction  
of the Board 2-  
3-103 M.C.A)***  
**6:02 pm**

None

**LAKESIDE  
VOLUNTEER  
FIRE  
DEPARTMENT  
(FPAE-16-03)**  
**6:03 pm**

A request by George Gibson on behalf of the Lakeside Volunteer Fire Department to construct an addition to the existing fire hall that will not meet the required rear setback of 20 feet. The architect gave notice to the Board of Adjustment of Flathead County that it intends to construct the addition that may be contrary to zoning regulations adopted by Flathead County as the property is zoned Spec-Com, (Special Commercial) in the Lakeside Zoning District. Pursuant to 76-2-402, MCA the board shall have no power to deny the proposed use but shall act only to allow a public forum for comment on the proposed use.

**MEMO**  
**6:03 pm**

Valade reviewed the memo for FPAE-16-03 for the Board.

**PUBLIC  
COMMENT**  
**6:04 pm**

None

**STEVEN AND  
JULIE KRUGER  
(FCU-16-13)  
6:04 pm**

A request from Steven & Julie Kruger, for a conditional use permit to establish a 'Bed and Breakfast Establishment' on property located within the Rural Whitefish Zoning District and zoned R-1 (*Suburban Residential*). The subject property is located at 2620 Big Mountain Road, northwest of Whitefish, MT and contains approximately 2.1 acres. The parcel can legally be described as Tract 4C in Section 11, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana. **This agenda item is continued from the August 2, 2016 meeting, the public comment portion has been closed.**

**STAFF REPORT  
6:05 pm**

Nielsen reviewed updated Staff Report FCU-16-13 for the Board.

**BOARD  
DISCUSSION  
6:06 pm**

Hash asked Noble about his previous objection on the sewer violation.

Noble stated it was taken care of with the use of only one bedroom for the Bed and Breakfast.

Hash asked Nielsen about the problem with the easement.

Nielsen stated a neighbor was concerned about the parking in the front of the house encroaching on the easement. She stated there was another easement that went behind the house that may be utilized for parking.

Kruger stated any large vehicles would park in the back; smaller cars that would not encroach would park in the front.

The Board discussed parking at length.

Noble asked about the certificate of occupancy.

Nielsen stated that it had been obtained since the last meeting.

**MAIN MOTION  
TO ADOPT F.O.F.  
(FCU-16-13)  
6:13 pm**

Klempel made a motion seconded Noble to adopt the Findings-of-Fact as written.

**ROLL CALL TO  
ADOPT F.O.F.  
(FCU-16-13)  
6:13 pm**

On a roll call vote the motion passed unanimously.

**BOARD  
DISCUSSION  
6:14 pm**

None

**MAIN MOTION  
TO APPROVE  
(FCU-16-13)  
6:14 pm**

Klempel made a motion seconded by Noble to accept Staff Report FCU-16-13 as Findings-of-Fact and Approve the Conditional Use Permit.

**ROLL CALL TO  
APPROVE  
(FCU-16-13)  
6:14 pm**

On a roll call vote the motion passed unanimously.

**DEN GAR  
PROPERTIES  
LLC  
(FCU-16-12)  
6:14 pm**

A request from Eric Mulcahy of Sands Surveying, Inc., on behalf of Den Gar Properties, LLC, for a conditional use permit to build a 4500 square foot Tavern/Casino on property located within the Blanchard Lake Zoning District and zoned B-2 (*General Business*). The subject property is located at 1985 Hodgson Road near Whitefish and contains approximately 3.8 acres. **This agenda item was postponed at the August 2, 2016 meeting.**

**STAFF REPORT  
6:14 pm**

Valade reviewed Staff Report FCU-16-12 for the Board.

**BOARD  
QUESTIONS  
6:18 pm**

None

**APPLICANT  
PRESENTATION**

Eric Mulcahy-Sands Surveying-2 Village Loop-stated he was representing the applicant. The applicant was proposing a restaurant/tavern/casino similar to Spencer's Steakhouse. Mulcahy gave a history of the surrounding properties. In reading through the comments, a lot of them relate to traffic and the restaurant's location on the highway; the property was located on an arterial and the arterial had turn lanes. The property is also on a collector road (Hodgson) and had traffic from residential use as well as a gravel pit further along the road. Agency referral letters were sent to MDOT and the Flathead County Road and Bridge department and their responses stated there was no problem, the roads could handle the traffic. The property has two (2) approaches off Hodgson road; the applicant is abandoning the western approach in favor of the eastern approach to allow for greater stacking distance. To address traffic, Mulcahy made some comparisons with other permitted uses based off the IT Trip Generation Manual

which he handed out to the Board.

**BOARD  
QUESTIONS  
6:25 pm**

None

**PUBLIC  
COMMENT  
6:25 pm**

Tom Thomas-1000 Point of View Ranch Dr., Whitefish stated the small guy was not being given a chance anymore. He talked about the casinos, lounges, and restaurants with casinos in the area. He was in favor of the application.

Derek Starker-116 Cougar Trail, Whitefish spoke in opposition to the application stating no one would want a casino across the street from their home. He was concerned about traffic and noise late at night. Property values would decrease.

John Morris-159 Mallard Loop, Whitefish was opposed to the tavern/casino next to a residential area. He was concerned about traffic and the safety of the residents.

Harlan Mumma-224 Pine Woods Ct., Whitefish was opposed. He was concerned about safety and the traffic.

Craig Kemp-1937 Hodgson Rd, Whitefish was opposed. He was concerned about the increase in traffic.

Jackie Cuffe-103 Bear Trail, Whitefish was opposed. She was concerned about the criminal element that the tavern would bring into the area.

Carolyn Collins-250 Elk Drive, Whitefish was opposed. She was concerned about the loss to property values and the safety of the neighborhood.

Dodd Talbot-118 Antelope Trail, Whitefish was opposed stating his main concern was the traffic.

Mark Galbraith-284 Moose Trail, Whitefish was opposed stating traffic was his main concern.

Mayre Flowers-Citizens for a Better Flathead-35 4<sup>th</sup> Street West, Kalispell stated that both the city of Whitefish and the city of Kalispell have adopted zoning for casino's that limits the spread of casinos. She stated that state law requires that zoning decisions be consistent with those of the adjoining municipalities; both of these municipalities have limited the spread of casinos. Conditional uses have impacts and those impacts provide the Board the basis to deny this application. This is a residential area and the staff report fails to look at this island of commercial within a residential district. She talked about studies that show negative impacts related to casinos in communities and handed out documents supporting this. She also talked about the cumulative effects on

traffic in the area and the need for traffic studies in the area.

**APPLICANT  
REBUTTAL  
7:00 pm**

Gary Ohs-1955 Hodgson Rd, Whitefish stated that his intent was not to build a “dive” bar but more of a family type environment.

Mulcahy addressed some of the concerns of the audience. He talked about the need for a traffic study, saying one was not required by MDT or the County Road and Bridge Department.

**STAFF  
REBUTTAL  
7:10 pm**

None

**BOARD  
DISCUSSION  
7:10 pm**

Dyck asked about accessing the casino through Ohs Body Shop.

Ohs stated there was not enough room to do that as the county had bought sixteen feet of the property to expand the road.

Hash asked about the increase in traffic and how they could determine if it would create a safety hazard.

Mussman stated that the planning office relied on the comments from the MDT and the Flathead County Road and Bridge Department to determine this information. If these agencies did not see a problem with the increase in traffic, then the planning office wouldn't either.

X Hash asked if a traffic study was necessary if the MDT and County Road and Bridge Department had looked at the application.

Mussman stated that the planning office relies on the responses received from the MDT and the County Road and Bridge Department to determine whether a traffic study is needed or not.

Hash asked if, after hearing the public concerns, it was the planning office's conclusion that this conditional use would not create additional safety concerns that would warrant it being denied by the Board.

Mussman stated that in relying on the agencies responsible for making those decisions it appears that they saw no safety issues that necessitated any additional safety improvements.

Hash asked if there were any additional conditions that needed to be added to alleviate some of the public concerns.

Mussman stated no.

Hash asked about the approach being on a blind hill.

Mussman stated that would be where the updated approach permit came in. If there were site distance issues the road and bridge department would address it at that time.

Mulcahy stated it appeared that there was adequate site distance when he was at the property. He stated that the road and bridge department would determine this when the applicant updated his approach permit.

Noble asked about limiting the hours of operation.

Ohs stated he thought about closing at 12 am on week-days and 2 am on the week-ends.

**MAIN MOTION  
TO ADOPT F.O.F.  
(FCU-16-12)  
7:41 pm**

Netteberg made a motion seconded by Klempel to adopt Findings-of-Fact as written.

**BOARD  
DISCUSSION  
7:41 pm**

The Board discussed limiting the hours of operation and the traffic concerns.

**ROLL CALL TO  
ADOPT F.O.F.  
(FCU-16-12)  
7:44 pm**

On a roll call vote the motion passed unanimously.

**MAIN MOTION  
TO APPROVE  
(FCU-16-12)  
7:45 pm**

Netteberg made a motion seconded by Noble to accept Staff Report FCU-16-12 as Findings-of-Fact and Approve the Conditional Use Permit.

**BOARD  
DISCUSSION  
7:46 pm**

None

**ROLL CALL TO  
APPROVE  
(FCU-16-12)  
7:46 pm**

On a roll call vote the motion passed unanimously.

**JAMIE LEE  
(FCU-16-14)**

A request from Jamie L. Lee, for a conditional use permit to establish a 'Home Occupation' on property located within the Highway 93 North Zoning District and zoned SAG-10 (*Suburban Agricultural*). The applicant is proposing to use a detached structure as a showroom for handmade jewelry. The subject property is located at 120 Highland Drive, north of Kalispell and east of Highway 93, and contains approximately 4.8 acres. **Postponed by applicant until October 4, 2016 meeting.**

**OLD BUSINESS  
7:47 pm**

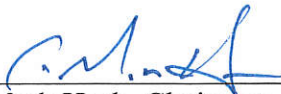
None

**NEW BUSINESS  
7:47 pm**

None

**ADJOURNMENT  
7:49 pm**

The meeting was adjourned at approximately 7:49 pm on a motion by Noble. The next meeting will be held at 6:00 pm on October 4, 2016.



Mark Hash, Chairman



Danene Thornton, Recording Secretary

*APPROVED AS SUBMITTED/CORRECTED: 10/04/16*